IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 479-DBA of 2005

Date of Decision :- November 27, 2006.

State of Haryana ....APPELLANT

VERSUS

Jagdish Chander and others ....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE BALDEV SINGH

Present:- Mr. Kulvir Narwal, Addl. Advocate General, Haryana.

Mr. H.S.Gill, Senior Advocate with
Mr. R.K.Dhiman, Advocate for the respondents.

MEHTAB S.GILL, J.

This is an appeal against the judgment dated 20.1.1997 of the Sessions Judge, Ambala whereby he acquitted Jagdish Chander, Gurnam Singh and Hakam Singh of the charges under Section 323/324/326 I.P.C.

The case of the prosecution is that on 25.4.1990 at 9.30 p.m. Natha Singh along with Gurnam Singh came in a truck. Gurmel Singh allegedly broke the electric wire and stopped the truck. Thereafter, Hari Singh gave three iron rod blows to Gurnam Singh. Gurdev Singh gave a

gandasi blow on the head of Natha Singh. Thereafter, Natha Singh was given knife blows by Chanan Singh. FIR No.100, dated 26.4.1990 was recorded. In that case, this Court has decided Criminal Appeal No. 181-DB of 1997 and Criminal Appeal No.687-SB of 1997 by a judgment of even date.

This case was a cross case and FIR No. 99, dated 26.4.1990 was recorded.

The prosecution to prove its case brought into the witness box Harminder Singh as PW1, Dr. Savita as PW2, Dr. Rajinder Mann as PW3, Sunehra Singh as PW4, Harbinder Singh as PW5, Ajmer Singh as PW6, Surjan Singh as PW7, Bhajan Singh alias Harbhajan Singh as PW8, Raghu Ram as PW9, Ram Kaur as PW10, Dharamvir Singh as PW11 and Joginder Singh as PW12.

Learned counsel for the State has argued, that the main version has already come in FIR No.100, dated 26.4.1990 and the complainant party in this case is liable.

Learned counsel for the respondents-acquitted accused has argued, that Surjan Singh PW7 and Bhajan Singh PW8 never claimed that there was a cross case even in the investigation stage. Surjan Singh PW7 is not believable. Bhajan Singh PW8 is an interested witness and his brothers Harbinder Singh and Ajmer Singh, who were injured, are accused in the murder case FIR No. 100, dated 26.4.1990. The medical evidence shows that only the little finger was bleeding. The Medical Officer and the Investigating Officer were trying to help the accused party.

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We have heard the learned counsel for the parties and perused the record with their assistance.

The medical evidence does not support the ocular account. If the gandasi blow had been given with full force, only the chip of little finger could not be taken away, but the other fingers would also have got injured. The injury on the person of Ram Kaur is not of a serious nature, as no fracture was found. Similarly, no fracture was found on the person of Ajmer Singh injured and the doctor has opined that the injury could be given with a friendly hand.

We do not find any infirmity in the judgment of the learned trial Court.

Criminal Appeal No. 479-DBA of 2005 is dismissed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

November 27, 2006
SKA